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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/749,978	12/30/2003	Tetsuo Minaai	KIT-362 US	9689
24972	7590	08/08/2006	EXAMINER	
FULBRIGHT & JAWORSKI, LLP			LONEY, DONALD J	
666 FIFTH AVE			ART UNIT	
NEW YORK, NY 10103-3198			PAPER NUMBER	

1772

DATE MAILED: 08/08/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/749,978

Applicant(s)

MINAAI ET AL.

Examiner

Donald Loney

Art Unit

1772

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 22 May 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 14-19 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 14-19 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on May 22, 2006 has been entered.

Claim Rejections - 35 USC § 112

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claims 14-19 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claims 14,15 and 18 all refer to the outer faces of the low temperature glass as being concave, however, the claims fail to specify where the outer faces are located. The inner face is understood since the claims contain language that indicates where they are located (i.e. bulge into the gap between the panes).

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

Art Unit: 1772

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 18 and 19 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Kawamura et al (4277275).

Kawamura et al discloses two glass sheets 1a,1b sealed with a low melting glass 3(31) wherein the face of the melting glass bilges into the space between the glass sheets and the outer face thereof has a concave profile. Refer to figures 3C,5 and 6 along with 1, lines 45-67 and column 3, line 38 through column 4, line 28.

Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

Art Unit: 1772

8. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

9. Claims 14-17 are rejected under 35 U.S.C. 103(a) as being unpatentable over either Demars (5643644) or WO99/57074 in view of Kawamura et al.

Both Demars and WO99/57074 teach a glass panel comprising a pair of glass sheets, a plurality of spacers there between and a low melting glass seal around the edge thereof. Demars discloses two glass sheets 2,3 sealed with solder glass 6 which softens at a temperature below that of glass (i.e. low temperature) in order to form a vacuum insulated glazing. The seal 6 in figures 1 and 3 clearly appear to at least somewhat bulge into the gap between the sheets. This seal material can be made of the same low temperature solder glass as the ball 8. Refer to column 4, lines 19-27, column 5, lines 22-34 and 55-65 and column 6, lines 1-3. Column 5, line 61 through column 6, line 3 disclose that the seal material undergoes a heat treatment so that they maintain their shapes. WO99/57074 discloses a vacuum glazing unit sealed with a low temperature glass wherein the seal S bulges into the gap between the glass sheets. Refer to figures 29-31. Refer to column 15, lines 17-24 and column 16, line 37 through column 17, line 59 in US Pat No 6387460. This patent is the English language equivalent to WO99/57074 (see priority thereof). The examiner relies on the WO

Art Unit: 1772

document since it has an earlier publication date. Both Demars and WO99/57074 do fail to teach the outer surface of the low melting temperature glass as concave.

Kawamura et al discloses two glass sheets 1a,1b sealed with a low melting glass 3(31) wherein the face of the melting glass bilges into the space between the glass sheets and the outer face thereof has a concave profile. Refer to figures 3C,5 and 6 along with 1, lines 45-67 and column 3, line 38 through column 4, line 28.

Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to the primary references to form the outer portion of the low melting glass with a concave profile, as taught by Kawamura et al, motivated by the fact Kawamura et al discloses that this structure is known to be used to seal two glass sheets together and both references use low melting glass as the edge seal material. With regards to the viscosity of the low melting glass in claims 14 and 15, it would be obvious to use whatever viscosity is required for a particular application motivated by the fact low melting glass is known to be used as the seal material in the art.

Response to Arguments

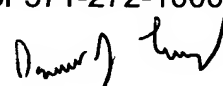
10. Applicant's arguments with respect to claims 14-19 have been considered but are moot in view of the new ground(s) of rejection.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Donald Loney whose telephone number is (571) 272-1493. The examiner can normally be reached on Mon, Tues, Thurs and Fri. 8AM-4PM, flex schedule.

Art Unit: 1772

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Harold Pyon can be reached on 571 272-1498. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



Donald Loney
Primary Examiner
Art Unit 1772

DJL:D.Loney
08/06/06